IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE THIRTIETH DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE C.Y.SOMAYAJULU

-

WRIT PETITION NO: 1161 of 2004

Between:

Sagili Kondaiah @ Chinna Kondaiah, S/o Kondaiah,
R/o Rekalakunta, Gopavaram Mandal, Kadapa District.

.... PETITIONER

AND

1 Special Collector (Land Acquisition), Somasila Project,

Atmakur, Nellore District.
2 The District Collector, Kadapa.
3 The Special Deputy Collector (Land Acquisition), Somasila

Project, Atmakur,Nellore District.
4 Sagilikondamma, W/o Veeraiah,
R/o Rekalakunta, Gopavaram Mandal,
Kadapa District.
5 Sagili Kondaiah, S/o Veeraiah,
R/o Rekalakunta, Gopavaram Mandal,
Kadapa District.

...RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an order or writ one in the nature of Writ of Mandamus declaring the action of the respondent No.1 to 3 in considering the objections of the Petitioners and distributing exgratia amount in favour of respondent Nos. 4 & 5 as arbitrary, illegal, unjust and violative of principles of natural justice and consequently direct the respondents 1 to 3 to pay the compensation to the petitioner for the lands in possession of the petitioners in Sy.No.84, Rekalakunta Village, Gopavaram Mandal, Kadapa District and pass such other order or orders as this Hon’ble Court may deem fit and proper in the circumstances of the case.

Counsel for the Petitioner: SMT.N.SHOBA

Counsel for the Respondent Nos.1 to 3: P.Sridhar Reddy (GP FOR LAND ACQUISITION)

Counsel for the Respondents 4 & 5 : Mr.P.Sridhar Reddy

The Court made the following:

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ORDER:

The case of the petitioner is that his father and grand father were assigned lands and that the Government, which resumed the said lands, in spite of his claim, is intending to pay the exgratia payable in respect of such resumption to respondents 4 and 5, on that ground he is seeking an appropriate writ to respondents 1 to 3 to consider his objections before grating exgratia to respondents 4 and 5.

2. On behalf of respondents 1 to 3, third respondent filed his counter affidavit alleging that the name of the petitioner is not found in the list of names submitted by the engineering department, which enquired into the persons entitled to compensation and that one S.Mallesu and petitioner filed O.S.No.98 of 2003 on the file of the Court of Junior Civil Judge, Badwel for an injunction, and so, exgratia was not paid to respondents 4 and 5 though they are having houses in the village as per the certificate issued by the Mandal Revenue Officer, Gopavaram.

3. On behalf of respondents 4 and 5, 4th respondent filed his counter affidavit alleging that since I.A.No.334 of 2003 in O.S.No.98 of 2003 filed by the petitioner seeking an injunction restraining the authorities from paying the compensation to them was dismissed on 03.02.2004, which order became final, petition is liable to be dismissed.

4. The question as to who is entitled to the compensation, as the legal heirs of the original assignee, is a question of fact, which cannot be decided by this Court in a petition under Article 226 of the Constitution of India. Admittedly, petitioner filed O.S.No.98 of 2003 on the file of the Court of Junior Civil Judge, Badwel. So, the question whether petitioner is entitled to the compensation can as well be decided by the Civil Court in that suit. Hence the writ petition is dismissed. No costs.

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C.Y.SOMAYAJULU, J

Dated: 30.03.2005

RAR

To

1 Special Collector (Land Acquisition), Somasila Project,

Atmakur, Nellore District.
2 The District Collector, Kadapa.
3 The Special Deputy Collector (Land Acquisition), Somasila

Project, Atmakur,Nellore District.
4 2 CCs to G.P for Land Acquisition, High Court Buildings,

Hyderabad (OUT)

5 2 CD copies.